

## § 90.809

agreements with auction winners under § 90.813) will be eligible to file applications on FCC Form 600 for initial 900 MHz SMR licenses in the event of mutual exclusivity between applicants filing Form 175.

### **§ 90.809 License grant, denial, default, and disqualification.**

(a) A bidder who withdraws its bid subsequent to the close of bidding, defaults on a payment due, or is disqualified, will be subject to the payments specified in § 90.805 or § 1.2109 of this chapter, as applicable.

(b) MTA licenses pursued through competitive bidding procedures will be granted pursuant to the requirements specified in § 90.166.

### **§ 90.810 Bidding credits for small businesses.**

(a) A winning bidder that qualifies as a small business or a consortium of small businesses, (as defined in § 90.814(b)(1)(i)) may use a bidding credit of 15 percent to lower the cost of its winning bid on any of the blocks identified in § 90.617(d), table 4B. A winning bidder that qualifies as a small business or a consortium of small businesses, (as defined in § 90.814(b)(1)(ii)) may use a bidding credit of 10 percent to lower the cost of its winning bid on any of the blocks identified in § 90.617(d), table 4B.

(b) Unjust Enrichment. (1) A small business seeking transfer or assignment of a license to an entity that is not a small business under the definitions in § 90.814(b)(1) will be required to reimburse the government for the amount of the bidding credit, plus interest at the rate imposed for installment financing at the time the license was awarded, before transfer will be permitted. The amount of this payment will be reduced over time as follows: a transfer in the first two years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit; in year three of the license term the payment will be 75 percent; in year four the payment will be 50 percent and in year five the payment will be 25 percent, after which there will be no assessment. If a small business as defined in § 90.814(b)(1)(i) seeks to transfer or assign a license to

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a small business as defined in § 90.814(b)(1)(ii), the value of the bidding credit to be repaid is five percent, the difference between the 10 and 15 percent bidding credits. The five percent difference will be subject to the percentage reductions over time specified above. These payments must be paid back to the U.S. Treasury as a condition of approval of the assignment or transfer.

(2) If a small business that utilizes a bidding credit under this section seeks to assign or transfer control of its license to a small business meeting the eligibility standards for lower bidding credits or seeks to make any other change in ownership that would result in the licensee qualifying for a lower bidding credit under this section, the licensee must seek Commission approval and reimburse the government for the difference between the amount of the bidding credit obtained by the licensee and the bidding credit for which the assignee, transferee or licensee is eligible under this section as a condition of the approval of such assignment, transfer or other ownership change.

### **§ 90.811 Reduced down payment for licenses won by small businesses.**

Each winning bidder that qualifies as a small business shall make a down payment equal to ten percent of its winning bid (less applicable bidding credits); a winning bidder shall bring its total amount on deposit with the Commission (including upfront payment) to five percent of its net winning bid within five (5) business days after the auction closes, and the remainder of the down payment (five percent) shall be paid within five (5) business days following Public Notice that the Commission is prepared to award the license. The Commission generally will grant the license within ten (10) business days after receipt of the remainder of the down payment.

### **§ 90.812 Installment payments for licenses won by small businesses.**

(a) *Installment payments.* See § 1.2110(f)(4) of this chapter.

(b) *Unjust enrichment.* See § 1.2111(c) of this chapter.

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